

**Notice of Allowability**

Application No.

10/707,402

Examiner

Andrew B. Freistein

Applicant(s)

LARKE, CARROLL W.

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1626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Supplemental Amendment filed 5/10/2007.
2. ☒ The allowed claim(s) is/are 1-79 and 90-92 (now 1-82).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20070502
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 2/12/2004 & 2/17/2004.

### **DETAILED ACTION**

The amendment filed May 10, 2007 was entered. Claims 1-79 and 90-92 are currently pending. Claims 80-89 were cancelled.

#### ***Information Disclosure Statement***

Applicant's information disclosure statements (IDS), filed on 02/12/2004 and 02/17/2004, have been considered. Please refer to Applicant's copies of the 1449 submitted herewith.

#### ***Restriction Requirement***

Applicant's arguments are deemed persuasive and, as a result, the restriction requirement is withdrawn.

#### ***Claim Rejections - 35 USC § 102***

Claims 1-89 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevenson et al., US Pat. No. 5,438,086. Applicant's arguments are deemed persuasive and, as a result, the rejection is withdrawn.

#### ***Claim Rejections - 35 USC § 103***

Claims 1-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson et al., US Pat. No. 5,438,086. Applicant's arguments are deemed persuasive and, as a result, the rejection is withdrawn.

#### ***Claim Rejections - 35 USC § 112***

Claims 1-89 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. As a result of the amendment filed 5/10/2007, the rejections are withdrawn.

### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

This application has been amended as follows:

1. In claims 2, 7, 12, 14, 17, 20, 21, 23, 26, 28, 30, 32, 33, 35, 36, 38, 40, 41, 44, 50, 52, 54, 56, 58, 61, 67-70, 72, 74, 78 and 91, in the amendment filed 5/10/2007, at the end of each claim, insert a period, ---.

### ***Reasons For Allowance***

The instant invention is a method for synthesizing a pentaerythritol diphosphite of the formula (VI). The closest relevant art is Stevenson et al., US Pat. No. 5,438,086. The instant application is novel over Stevenson et al., because of the limitation of step (b) in the synthesis, which requires removing the reaction products by distillation other than the intermediate pentaerythritol diphosphite from the reaction mixture. Stevenson et al. does not teach or suggest this limitation.

### ***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew B. Freistein whose telephone number is (571) 272-8515. The examiner can normally be reached Monday-Friday, 8:30 am - 5:00 pm.

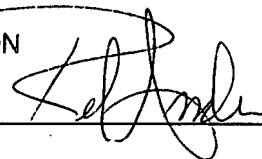
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

Andrew B. Freistein  
Patent Examiner, AU 1626

REBECCA ANDERSON  
PATENT EXAMINER



for

Joseph K. McKane  
Supervisory Patent Examiner, AU 1626  
Date: May 18, 2007